

## **REMARKS**

In response to the final Office Action dated May 1, 2008, the Assignee respectfully requests continued examination and reconsideration based on the above amendments and on the following remarks.

Claims 1-6, 9-23, and 26-28 are pending in this application. Claims 7-8 and 24-25 have been canceled without prejudice or disclaimer.

### **Rejection of Claims over *Grauch, Batten, Rosser & Alexander***

Claims 1, 6, 9-15, 21-23, and 26-28 were rejected under 35 U.S.C. § 103 (a) as allegedly being obvious over WO 98/31114 to Grauch, *et al.* in view of WO 01/47156 to Batten, *et al.* in view of U.S. Patent 6,446,261 to Rosser and further in view of U.S. Patent 6,177,931 to Alexander, *et al.*

The proposed combination of *Grauch, Batten, Rosser, and Alexander*, however, does not obviate claims 1, 6, 9-15, 21-23, and 26-28. These claims recite, or incorporate, features that are not taught or suggested by the combined teaching of *Grauch, Batten, Rosser, and Alexander*. Independent claim 1, for example, recites “*retrieving credit card purchasing data describing a date and time that the subscriber made credit card purchases*” and “*comparing the data from the event timelines to the credit card purchasing data.*” Independent claim 1 also recites “*classifying the subscriber in a category associated with a product or service when the data from the event timelines indicates that the subscriber viewed an advertisement for the product or service and afterwards the date and time of the credit card purchasing data indicates that the subscriber purchased the product or service*” (emphasis added). Support for all these features may be found in the as-filed application at paragraphs [0017] and [0021]. Independent claim 15 recites similar features.

The proposed combination of *Grauch*, *Batten*, *Rosser*, and *Alexander* does not obviate all these features. *Grauch* discloses a system that combines event records and content data to form event timelines. See WO 98/31114 to *Grauch, et al.* at page 3, line 20 through page 4, line 7. *Batten* discloses a merge processor that classifies a user in a demographic group and then delivers an advertisement targeted to that demographic group. See WO 01/47156 to *Batten, et al.* at page 5, lines 1-7. *Batten*, in particular, matches a subscriber's profile to a demographic group. See *id.* at page 12, lines 9-10. "Generally, this analysis involves searching the event lists and subscriber data for patterns such as key words, *e.g.*, "action" movie or western movie, or repeatedly selected menu items, *e.g.*, do-it-yourself home improvement videos." *Id.* at page 12, lines 10-13. "As part of this search, merge processor 100 could count the number of key words cited, the number of menu item selections, or perhaps the amount of time the subscriber viewed particular menus." *Id.* at page 12, lines 13-15 (emphasis added). "[I]f the number of amount exceeded a certain threshold, [the processor] would assign the subscriber to a certain customer profile or demographic group. *Id.* at page 12, lines 15-17. *Rosser* describes a set-top box that monitors a user's viewing selections and builds a viewer profile. See U.S. Patent 6,446,261 to *Rosser* at column 3, lines 47-51. Video may then be "narrow cast" to viewers whose profile matches an advertiser's request. See *id.* at column 4, lines 20-30. *Alexander* discusses an electronic programming guide that includes advertising information.

Even so, the proposed combination of *Grauch*, *Batten*, *Rosser*, and *Alexander* does not obviate independent claims 1 and 15. The combined teaching of *Grauch*, *Batten*, *Rosser*, and *Alexander* fails to teach or suggest at least "classifying the subscriber in a category associated with a product or service when the data from the event timelines indicates that the subscriber viewed an advertisement for the product or service and afterwards the date and time of the credit card purchasing data indicates that the subscriber purchased the product or service" (emphasis added). Because *Grauch*, *Batten*, *Rosser*, and *Alexander* are all silent to at least these features, one of ordinary skill in the art would not think that independent claims 1 and 15 are obvious.

Claims 1, 6, 9-15, 21-23, and 26-28, then, are not obvious over *Grauch*, *Batten*, *Rosser*, and *Alexander*. Independent claims 1 and 15 recite many features that are not taught or

suggested by the proposed combination of *Grauch*, *Batten*, *Rosser*, and *Alexander*. Their respective dependent claims incorporate these features and recite additional features. One of ordinary skill in the art would not think that claims 1, 6, 9-15, 21-23, and 26-28 are obvious, so the Office is respectfully requested to remove the § 103 (a) rejection of these claims.

### **Rejection of Claims 8 & 25r**

Claims 8 and 25 were rejected under 35 U.S.C. § 103 (a) as being allegedly obvious over *Grauch* in view of *Batten* and further in view of U.S. Patent 5,758,259 to Lawler, *et al.* Claims 8 and 25, however, depend, respectively, from independent claims 1 and 15. Claims 8 and 25, then, incorporate the same distinguishing features discussed above. As the above paragraphs explained, both *Grauch* and *Batten* are silent to many of the features recited by independent claims 1 and 15, and *Lawler* does not cure these deficiencies. Table 2 of *Lawler* discloses a “count” of the “received programming” that matches each genre. *See, e.g.*, U.S. Patent 5,758,259 to Lawler, *et al.* at column 8, lines 1-3 (emphasis added). The proposed combination of *Grauch*, *Batten*, and *Lawler* still fails to teach or suggest all the features recited by independent claims 1 and 15. The Office is thus respectfully requested to remove the § 103 (a) rejection of these claims.

### **Rejection of Claims 2 & 16**

Claims 2 and 16 were rejected under 35 U.S.C. § 103 (a) as being allegedly obvious over *Grauch* in view of *Batten* and further in view of U.S. Patent 6,696,020 to Zigmond, *et al.* and further in view of U.S. Patent Application Publication 2001/0004733 to Eldering. Claims 2 and 16, however, depend, respectively, from independent claims 1 and 15. Claims 2 and 16, then, incorporate the same distinguishing features discussed above. As the above paragraphs explained, *Grauch* and *Batten* are silent to many of the features recited by independent claims 1 and 15, and the additional teachings of *Zigmond* and *Eldering* do not cure these deficiencies. *Zigmond* counts the number of times a user has seen an advertisement. *See* U.S. Patent 6,696,020 to Zigmond, *et al.* at column 13, lines 41-42. “[O]nce the advertisement has been

displayed the desired number of times during a given time period, further display of the advertisement ... is blocked.” *Id.* at column 13, lines 42-45 (emphasis added). *Eldering* determines the number of times a consumer purchases a product. *See* U.S. Patent Application Publication 2001/0004733 to *Eldering* at paragraphs [0084] and [0085].

Dependent claims 2 and 16, in contradistinction, recite “*classifying the subscriber when a predetermined number of advertisements is exceeded*” (emphasis added). So, the teachings of *Zigmond* and *Eldering* would cause *Grauch* and *Batten* to block an advertisement, not “*classify*,” as independent claims 1 and 15 recite. Moreover, the proposed combination of *Grauch*, *Batten*, *Zigmond* and *Eldering* still fails to teach or suggest all the features recited by independent claims 1 and 15. The proposed combination of *Grauch*, *Batten*, *Zigmond* and *Eldering*, then, cannot obviate independent claims 1 and 15, from which claims 8 and 25 depend. The Office is respectfully requested to remove the § 103 (a) rejection of these claims.

#### **Rejection of Claims 4-5 & 17-20**

Claims 4-5 and 17-20 were rejected under 35 U.S.C. § 103 (a) as being allegedly obvious over *Grauch* in view of *Batten* and *Eldering*. Again, though, claims 4-5 and 17-20 depend, respectively, from independent claims 1 and 15. These claims, then, incorporate all the distinguishing features discussed above, and these claims recite additional features. Because the combined teaching of *Grauch*, *Batten*, and *Eldering* fails to teach or suggest all these distinguishing features, one of ordinary skill in the art would not think that claims 4-5 and 17-20 are obvious. The Office is respectfully requested to remove the § 103 (a) rejection of these claims.

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If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or [scott@scottzimmerman.com](mailto:scott@scottzimmerman.com).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. Zimmerman", with a stylized flourish at the end.

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